

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Corporation Counsel



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CORPORATION COUNSEL ANNOUNCES CAREFIRST PROCEDURES

District of Columbia Corporation Counsel Robert R. Rigsby today announced further details about the procedures the Office of the Corporation Counsel ("OCC") will follow in reviewing the proposed conversion and sale of CareFirst and its D.C. subsidiary, Group Hospitalization and Medical Services Inc. ("GHMSI") to WellPoint Health Networks Inc. ("WellPoint").

To allow District citizens an opportunity to comment on the proposal, the Corporation Counsel said he would hold at least two public forums at different locations in the city, followed by a public hearing at a central location. The public forums are tentatively scheduled for this fall, and the public hearing is expected to take place this winter. Specific dates, times and locations and the procedures to be followed by participants will be announced by public notice in the near future, subject to further developments.

CareFirst, the largest health insurer in the Washington, D.C., region, provides health benefits to approximately 1.3 million subscribers in the District, Maryland, Delaware, and Virginia, through its subsidiaries and various health plans.

WellPoint, in conjunction with CareFirst and GHMSI, applied to the D.C. Department of Insurance and Securities Regulation (DISR) on January 11, 2002, for permission to convert GHMSI to for-profit status and then to allow WellPoint to acquire CareFirst and GHMSI. Similar applications were submitted to the Insurance Commissioners of Maryland and Delaware. GHMSI, a subsidiary of the holding company CareFirst, is better known by its trade name, Blue Cross/Blue Shield of the National Capital Area. GHMSI was originally chartered by Congress in the 1930s as a non-profit "charitable and benevolent" health insurer, while WellPoint is a for-profit managed-care corporation based in Thousand Oaks, California. GHMSI's territory includes the District of Columbia, Montgomery and Prince George's County in Maryland, and part of Fairfax County in Virginia.

The D.C. Insurance Commissioner directed WellPoint and CareFirst to submit an amended application by August 12, 2002, to remedy deficiencies in the original application, and requested that the companies include a proposed plan for the use of the proceeds to be derived by the District as a result of the transaction. The public may provide its comments on the proposed conversion and sale, and on the amended application, to OCC at the public forum events scheduled for late September 2002. The schedule for these public forums is intended to ensure

that citizens have an ample opportunity to review the amended application and to comment thereon. In addition, OCC welcomes written comments, at any time, which will be taken into consideration and included in OCC's official record.

The proposed transaction must be approved by the Corporation Counsel and the Insurance Commissioner of the District, as well by as the Insurance Commissioners of Maryland and Delaware, and the Delaware Attorney General. A Congressional amendment to the GHMSI charter is also required to allow GHMSI to convert to for-profit status.

The Hospital and Medical Services Corporation Regulatory Act (D.C. Official Code § 31-3501 *et seq.*) requires that, before the D.C. Insurance Commissioner may approve the conversion of GHMSI to for-profit status and the "acquisition of control" of GHMSI by WellPoint, the Corporation Counsel is to protect all charitable assets currently held by GHMSI. The Corporation Counsel is to review and act upon the application pursuant to criteria set forth in the Healthcare Entity Conversion Act (D.C. Official Code § 44-601 *et seq.*) ("Conversion Act"). As a non-profit entity, GHMSI has no shareholder owners, and its assets are, in effect, held for the benefit of the public. If the conversion and sale of GHMSI are approved, the price WellPoint pays to acquire GHMSI's assets will accrue to the public.

Corporation Counsel Rigsby also noted that the Conversion Act requires that, if the transaction is approved, an independent charitable trust must be established to receive GHMSI's charitable assets to be used "for appropriate charitable purposes consistent with the healthcare entity's purposes or operations in the affected community." In their conversion plan, the applicants are required to include a proposed structure for the charitable trust that will, in turn, be evaluated by OCC as a part of its regulatory review. Although the applicants omitted this item from their initial filing, they have been instructed by the Commissioner of DISR to include it in their amended application. OCC is also presently considering whether an expert charitable foundation consultant should be retained to advise OCC on the formation of such a charitable trust, should that occur.

Whether WellPoint's purchase offer is fair and equitable is one of many elements of the transaction that the Conversion Act requires the Corporation Counsel to assess. The Corporation Counsel is also charged with determining whether the parties to the transaction have complied with all applicable laws; whether the charitable assets would be placed in a charitable trust to be used for appropriate charitable purposes consistent with GHMSI's purposes or operations in the community; and whether the transaction results in the enrichment of any person.

The role of the Corporation Counsel in reviewing the transaction is distinct from, but complementary to, the role played by the Commissioner of DISR. In general terms, the role of the Commissioner of DISR is to ensure that the proposed conversion of GHMSI from a nonprofit to a for-profit company is in the public's interest, that the resulting for-profit company would be a financially viable entity, and that GHMSI's policyholders and the insurance-buying public will not be harmed as a result of the conversion and acquisition. While also cognizant of these concerns, the Corporation Counsel's duty is the protection of the charitable assets now held by GHMSI and the preservation of those assets in the future. In summary, OCC and DISR will

work in conjunction to see that the best possible decisions are made for the people of the District of Columbia with regard to the transaction.

Mr. Rigsby said that while awaiting receipt of the amended application, OCC will proceed with necessary due diligence and will, together with DISR, retain an independent investment banker to conduct a thorough evaluation of the financial aspects of the proposed transactions. DISR and OCC have received proposals from qualified investment bankers and are in the process of retaining Cain Brothers, an investment banking firm specializing in the health care industry. Outside legal counsel, Manatt, Phelps & Phillips, LLP, has also been retained to primarily support OCC in its review of the transaction. District law authorizes the DISR and the Corporation Counsel to retain outside legal counsel and other experts, with the cost to be borne by WellPoint. Additionally, OCC is presently considering whether it will be necessary to retain additional consultants to assist in the District's review of the transaction, such as an executive compensation consultant to review the employment contracts of GHMSI executives.

On Wednesday, July 24, 2002, OCC sent its first written request for document production and information to CareFirst as it begins to assemble the administrative record for its review of the transaction. This written request will be posted on OCC's website: <http://occ.dc.gov>. Also, OCC is establishing a public document room in the OCC Law Library at One Judiciary Square, 441 4th Street, N.W., Room 1C-S010 so the public will be able to review the documents that CareFirst and WellPoint submit to the District government in support of their application, as well as materials submitted by other interested parties. Shortly, OCC will publicly announce the availability of the document room and the procedures for its use. Additional information, news, and notices regarding OCC's review of the transaction will be available on OCC's website. OCC anticipates announcing further details regarding the process and scheduling for the public forums and the public hearing at the end of the month.

The Office of the Corporation Counsel welcomes written comments on the proposal from all sources. Written comments should be submitted to OCC at 441 4th Street N.W., Suite 1060 North, Washington, D.C. 20001. In addition, interested persons and groups that wish to be on OCC's official mailing list for news and notices regarding OCC's review of the transaction should send a letter to that effect to the above address. For questions on the status of the application, please contact Peter Lavalley, OCC Public Information Officer, at (202) 724-5198.

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